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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

No. 9

THE SCHRIBER-SCHROTH COMPANY,
Petitioner,

vs.

THE CLEVELAND TRUST COMPANY, CHRYSLER CORPORATION,
Respondents.

No. 10

THE ABERDEEN MOTOR SUPPLY COMPANY,
Petitioner,

vs.

THE CLEVELAND TRUST COMPANY, CHRYSLER CORPORATION.

No. 11

THE F. E. ROWE SALES COMPANY,
Petitioner,

vs.

THE CLEVELAND TRUST COMPANY, CHRYSLER CORPORATION.

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

APPLICATION FOR WRIT OF CERTIORARI TO CORRECT DIMINUTION OF RECORD.

JOHN H. BRUNINGA,
JOHN H. SUTHERLAND,
Counsel for Petitioners.

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APPLICATION FOR WRIT OF CERTIORARI TO CORRECT DIMINUTION OF RECORD.

Now come petitioners in the above entitled causes, and show:

1. That during the taking of the deposition of Louis M. Stellman (R. 455) there was produced a blue print of a drawing of the H. H. Franklin Manufacturing Company

numbered P-3984, which was there marked for identification as Defendants' Exhibit BB.

2. That during the taking of the testimony of Stephen R. Castor in behalf of Plaintiffs-Respondents at Record Page 670, the witness Castor produced a blue print of the same drawing, to-wit Number P-3984; which was there offered in evidence as Defendants' Exhibit BB-1.

3. That a copy of said drawing, duly certified, by the Clerk of the District Court is annexed hereto.

4. That said drawing, P-3984, does not appear in the record as certified from the court below, either as Exhibit BB, or as Exhibit BB-1, or otherwise; and that the omission of the same arose through inadvertence, accident and mistake, and under the following conditions:

On or about November 27, 1934, principal counsel for petitioners in St. Louis, Missouri, received from principal counsel for respondents a proposed praecipe, setting forth the items in the record to be included in the transcript furnished the Court of Appeals; such proposed praecipe did not include Exhibit BB or Exhibit BB-1; on December 10, 1934, principal counsel for petitioners advised principal counsel for respondents that they would insist upon inclusion of certain of defendants' exhibits, including Exhibit BB, in the printed record; in a letter dated February 25, 1935, principal counsel for respondents advised principal counsel for petitioners, *inter alia*, that:

> "We are also including the many Defendant's exhibits that you desire to have included in the Praecipe."

Thereafter, certain adjustments were made in the praecipe, with the view of shortening the record, as by stipulating digests of certain matters; but principal counsel for petitioners assumed that the said Exhibit BB would be

included in the printed record, until after receipt of the printed record counsel found that the same was not included. While the praecipe finally filed by respondents did not include either Exhibit BB or Exhibit BB-1, this fact was overlooked by counsel for petitioners, who relied upon counsel for respondents' statement, as set forth above, that defendants' requested exhibits had been included.

5. That printing of the record for this Court has not been proceeded with.

WHEREFORE IT IS PRAYED that writ of certiorari issue to the United States District Court for the Northern District of Ohio, requiring the clerk of said court to certify to this Court a copy of said drawing numbered P-3984, either as Exhibit BB or as Exhibit BB-1; or, in the alternative, that the certified copy of said drawing, as filed herewith, be reproduced as a part of the printed record in these causes.

THE SCHRIBER-SCHROTH COMPANY,
THE ABERDEEN MOTOR SUPPLY COMPANY,
THE F. E. ROWE SALES CO.,
Petitioners.

JOHN H. BRUNINGA,
By JOHN H. SUTHERLAND,
Attorneys,
St. Louis, Missouri.

October 8, 1940.

STATE OF OHIO,
County of Cuyahoga, ss:

John H. Sutherland, being duly sworn, deposes and says that he is of counsel for petitioners in the above-entitled causes; that he is familiar with the facts stated in the foregoing Application for Writ of Certiorari to Correct Diminu-

tion of Record; and that the same are true to the best of his knowledge, information or belief.

JOHN H. SUTHERLAND.

Sworn to and subscribed before me this 8th day of October, 1940.

GARNET L. SHEETS,
Notary Public.

[SEAL.]

My commission expires Nov. 29, 1942.

Service of following acknowledged this 8th day of October, 1940.

WM. C. McCOY,
Attorney for Respondents.

(Here follows 1 photolithograph)

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11895
11905

.3226
.3223

.2932
.2942

.35 DRILL (110) 6 HOLES

.750
.7495

1.6130
1.6300

.3692.5
.3690.5

3 1/16

.3248
.3246

THIS BOSS ON DIE CAST PISTONS ONLY FOR MACHINING PURPOSES

POLISH TOP

SAW to WIDE

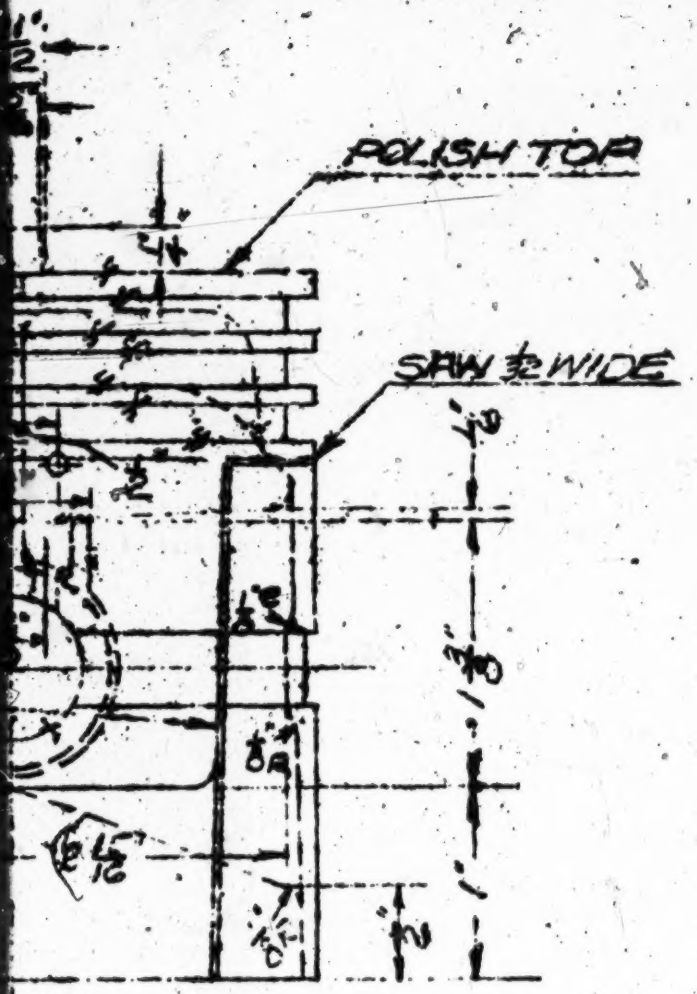
THE SURFACE BOUNDED BY THESE LINES ON BOTH SIDES OF PISTON TO BE .005 BELOW REST OF SKIRT

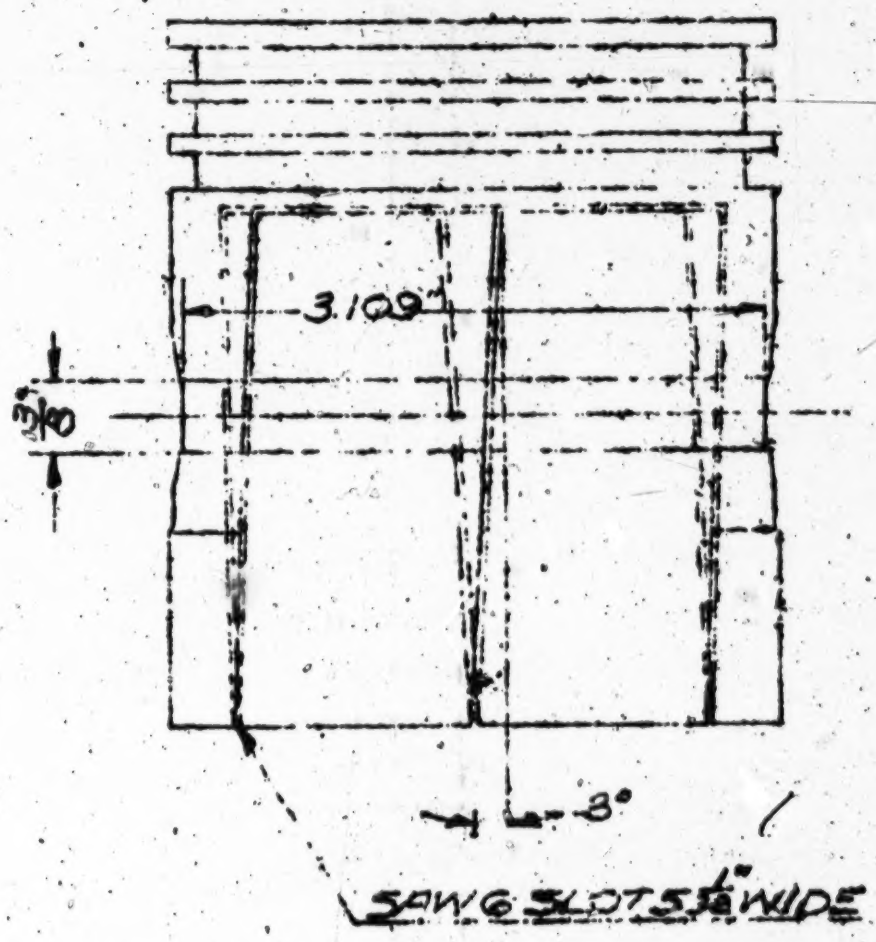
50°

50°

ALL PISTONS ON SAME MOTOR MUST BE SAME WEIGHT

BEFORE MACHINING THE DIE CAST PISTONS THE CASTIN SHALL BE HEATED TO 600°F FOR 80MIN AND ALLOWED TO COOL SLOWLY IN THE A.B.





MOTOR MUST BE SAME WEIGHT

E DIE CAST PISTONS THE CASTING
F FOR ROMIN AND ALLOWED
A.E.

H H FRANKLIN MANUFACTURING CO.
SYRACUSE, NEW YORK

NAME	PISTON
	DATE May 8-19
	P-3084

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DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OHIO, EASTERN DIVISION.

UNITED STATES DISTRICT COURT,
Northern District of Ohio, ss:

I, C. B. Watkins, Clerk of the District Court of the United States within and for said District, do hereby certify the foregoing to be a true copy of the Defendants' Exhibit BB filed in the above-entitled cause in said court, and that the same is correctly copied from the original now in my official custody and on file in my office.

Witness, my official signature and the seal of said court at Cleveland, in said District, this 8th day of October, A. D. 1940.

C. B. WATKINS,
Clerk,

By M. FLOETER,
Deputy Clerk.

[SEAL.]